

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 13.09.2017

CORAM

THE HON'BLE Mr.JUSTICE A.SELVAM
and
THE HON'BLE Mr.JUSTICE P.KALAIYARASAN

H.C.P.No.830 of 2017

Usha .. Petitioner

Vs

1.The Secretary to the Government
Home, Prohibition and Excise Department
Secretariat
Chennai - 600 009

2. The Commissioner of Police
Greater Chennai, Police .. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, to call for the records in connection with the order of Detention passed by the second respondent dated 20.04.2017 in Memo No.202/BCDFGISSSV/2017 against the petitioner son Karuppu @ Vadivazhagan, male aged 25 years, S/o.Sathiyamurthy, who is confined at Central Prison, Puzhal II, Chennai and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.S.Senthilvel

For Respondents : Mr.V.M.R.Rajentren
Additional Public Prosecutor

O R D E R

[Order of the Court was made by A.SELVAM, J.]

This Habeas Corpus Petition has been filed under Article 226 of the Constitution of India praying to call for the records relating to the detention order passed in Memo No.202/BCDFGISSSV/2017 dated 20.04.2017, against the detenu by name, Karuppu @ Vadivazhagan, aged 25 years, S/o.Sathiyamurthy, No.14, Rajan Street, near Gandhi Statue, Pallavaram, Chennai - 600 043 and quash the same.

2. The Inspector of Police, Aminjikai Police Station, as Sponsoring Authority, has submitted an affidavit to the Detaining Authority, wherein, it is averred to the effect that the detenu has involved in the following adverse cases:

- i) K-3 Aminjikai Police Station, Crime No.259 of 2016, registered under Section 380 of Indian Penal Code;
- ii) K-3 Aminjikai Police Station, Crime No.260 of 2016, registered under Section 380 of Indian Penal Code;
- iii) K-3 Aminjikai Police Station, Crime No.398 of 2017, registered under Section 379 of Indian Penal Code; and
- iv) K-3 Aminjikai Police Station, Crime No.439 of 2017, registered under Section 379 of Indian Penal Code.

3. Further it is averred in the affidavit that on 03.04.2017, one Kannaiyan, aged 62 years, S/o.Kanniyappan, residing at No.4/10, Second Cross Street, M.H.Colony, Chennai-29, as defacto complainant, has given a complaint in Aminjikai Police Station against the detenu, wherein it is alleged to the effect that in the place of occurrence, by showing a knife, the detenu has forcibly taken away a sum of Rs.960/- from the shirt pocket of the defacto complainant and also tried to attack him. Under such circumstance, a case has been registered in Crime No.642 of 2017 under Sections 341, 294(b), 397, 336 and 506(ii) of Indian Penal Code and ultimately requested the Detaining Authority to invoke Act 14 of 1982 against the detenu.

4. The Detaining Authority, after considering the averments made in the affidavit and other connected documents, has derived a subjective satisfaction to the effect that the detenu is a habitual offender and ultimately, branded him as "Goonda" by way of passing the impugned Detention Order and in order to quash the same, the present petition has been filed by the mother of the detenu, as petitioner.

5. On the side of the respondents, counter has not been filed. Under such circumstance, this petition is disposed of on merits on the basis of available materials on record.

6. The learned counsel appearing for the petitioner has contended to the effect that on the side of the detenu, a representation has been given, but the same has not been disposed of without delay and therefore, the Detention Order in question is liable to be quashed.

7. The learned Additional Public Prosecutor has contended to the effect that the representation submitted on the side of the detenu has been duly disposed of without delay and therefore, the contention put forth on the side of the petitioner is liable to be rejected.

8. On the side of the respondents, a proforma has been

submitted, wherein, it has been clearly stated that in between column Nos.7 and 9, 3 clear working days are available and in between column Nos.12 and 13, 10 clear working days are available and no explanation has been given on the side of the respondents with regard to such delay and that the same would affect the rights of the detenu guaranteed under Article 22(5) of the Constitution of India.

9. In fine, this Habeas Corpus Petition is allowed and the Detention Order dated 20.04.2017 passed in Memo No.202/BCDFGISSSV/2017 by the second respondent against the detenu by name, Karuppu @ Vadivazhagan, aged 25 years, S/o.Sathiyamurthy is quashed and directed to set him at liberty forthwith unless he is required to be incarcerated in any other case.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

gpa

To

- 1.The Joint Secretary to Government of Tamil Nadu,
Public [Law and Order] Department,
Secretariat, Chennai-9.
- 2.The Secretary to the Government
Home, Prohibition and Excise Department
Secretariat
Chennai - 600 009
3. The Commissioner of Police
Greater Chennai, Police
- 4.The Superintendent
Central Prison
Puzhal, Chennai-600 006
[in duplicate for communication to the detenu]
- 5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.830 of 2017

CP(CO)
GN(13/09/2017)